

APPENDIX III

NON-SUMMARY JUDGMENT MOTION SCHEDULING ORDER¹ AND SUBMISSION GUIDELINES

The court recognizes that a number of motions filed with the court do not require additional briefing before the court takes them under consideration.

However, to the extent the parties determine that briefing is necessary on a non-summary judgment motion, or to the extent the court orders briefing on a non-summary judgment motion, this order establishes the schedule and requirements for the submission of such. Except for good cause shown, briefs that do not conform to the requirements of this Order will be stricken.

A. Schedule

1. Upon the filing of any non-summary judgment motion, the movant shall either incorporate into the motion the arguments and/or authorities upon which it relies or *simultaneously* file a separate brief with its initial motion.

2. The opponent's responsive brief shall be filed no later than **seven (7) calendar** days thereafter. (NOTE: If the due date falls on a weekend or court holiday, the due date shall be the next business day.)

¹NOTE: The following instructions do not apply to summary judgment motions unless an order of the court specifically provides otherwise. Any motion(s) for summary judgment filed in this action shall be governed by the provisions of Appendix II to the Uniform Initial Order, which can be viewed on the court's website at <http://www.alnd.uscourts.gov/Kallon/KallonPage.htm>.

3. The movant's reply brief shall be filed no later than **three (3) calendar** days after the date on which the opponent's responsive brief was due.

(NOTE: If the due date falls on a weekend or court holiday, the due date shall be the next business day.)

The parties shall transmit their briefs in such a manner that their opponents will not suffer any undue delay in the receipt of their service copies of any briefs. It is the intent of the court that each party shall be afforded a full and fair opportunity to be heard, and counsel are expected to take care that service of copies is not unreasonably delayed.² Upon conclusion of the submission schedule, the court may take the motion under submission without further notice to the parties, and materials submitted after the close of the submission schedule will not be considered in ruling on the motion absent obtaining leave of court.

B. Briefs

The parties shall *electronically file* their briefs through the court's CM/ECF system and shall submit an exact courtesy copy of the brief, which includes the CM/ECF case, document, date, and page stamp on each page, to the Clerk's office

²The opposing party should typically receive a copy of all materials on the same date that the submission is made to the court, but in no event more than one (1) business day later.

for delivery to the court's chambers.³ The parties are then required to email their briefs, in **WordPerfect format**, to the chamber's email address at *kallon_chambers@alnd.uscourts.gov*. The courtesy copy submitted to the Clerk's office for delivery to the court's chambers, as well as those sent via email, shall contain the exact same materials and only the materials which are electronically filed through the court's CM/ECF system. There must be no differences between the electronically "filed" briefs and the "courtesy copy" provided to the court, except that the courtesy copy submitted for chambers *must* be three-hole punched and securely bound by a three-ring binder for ease of use and to prevent inadvertent loss of pages. In the event of a later appeal, the court will not look favorably upon motions to supplement the record on appeal to add materials on the ground that such materials were submitted to the court but were not electronically "filed" with the Clerk.

Briefs should be entitled "[Movant's or Opponent's] [Initial, Responsive, or Reply] Submission, and if applicable, "[In Response to (document title)]" to ensure that the brief will be filed by the Clerk in the official court record. Briefs exceeding ten (10) pages in length shall have incorporated therein a table of

³ Deliveries are no longer accepted in the court's chambers unless prior arrangements have been made.

contents that accurately reflects the organization of the brief. Tables of Contents shall not be included for purposes of computing the number of pages in a brief.

1. Page Limitation – Dispositive motions other than summary judgment (e.g., motion to remand, motion to dismiss)

Initial and response briefs must be (1) typewritten, (2) double-spaced, (3) in fourteen point type, except footnotes may be in twelve point type, and (4) limited to fifteen (15) pages, exclusive of exhibits. Reply briefs are limited to five (5) pages.

2. Page Limitation – Non-dispositive motions (e.g., motion to compel, motion to quash)

Initial and response briefs must be (1) typewritten, (2) double-spaced, (3) in fourteen point type, except footnotes may be in twelve point type, and (4) limited to twenty (20) pages, exclusive of exhibits. Reply briefs are limited to ten (10) pages.

C. Required Certification

Counsel for either party (or any individual under the direction or control of a party) signing any document, including an affidavit, in connection, either directly or indirectly, with a motion, response, or reply, shall certify by his or her personal signature and as an officer of the court that he or she has affirmatively

and diligently sought to submit to the court only those documents, factual allegations, and arguments that are material to the issues to be resolved in the motion, that careful consideration has been given to the contents of all submissions to ensure that the submissions do not include vague language, an overly broad citation of evidence, or misstatements of the law, and that all submissions are non-frivolous in nature.

D. Oral Argument

Upon receipt of the motion, the court may schedule the motion for consideration at a separate hearing. Oral argument is not required, but either party may submit a request for oral argument by serving a request on the court and opposing party. Requests for oral argument must be separately submitted for delivery to the court's chambers (not filed or requested within the motion or brief). The court will permit oral argument if it appears it is necessary or would be helpful to the motion's expedient and appropriate disposition.